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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/552,565

10/11/2005

Alfred Pellegrini

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EXAMINER

PRANGE, SHARON M

ART UNIT

PAPER NUMBER

3728

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DELIVERY MODE

03/17/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/552,565	<b>Applicant(s)</b> PELLEGRINI, ALFRED	
	<b>Examiner</b> SHARON M. PRANGE	<b>Art Unit</b> 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/11/05</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5 and 11-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "the same grip" in line 4. There is insufficient antecedent basis for this limitation in the claim.

The claim limitation "means are provided for locking the laces" uses the phrase "means for" or "step for", but it is modified by some structure, material, or acts recited in the claim. It is unclear whether the recited structure, material, or acts are sufficient for performing the claimed function which would preclude application of 35 U.S.C. 112, sixth paragraph, because it is not clear whether the added limitation that the means for locking the laces are active independently on each pair of the ends of the laces is sufficient for performing the claimed function.

If applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that the phrase "means for" or "step for" is clearly **not** modified by sufficient structure, material, or acts for performing the claimed function.

If applicant does **not** wish to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that it will clearly not

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be a means (or step) plus function limitation (e.g., deleting the phrase “means for” or “step for”).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Veylupek (US Patent No. 5,755,044).

Regarding claim 1, Veylupek discloses footwear with an opening having a first and second edge, and a plurality of lacing eyes (anchor elements 12, passages 33). Two laces (double strand lace 14) extend through the lacing eyes and converge at the edges of the opening. The ends of each of the laces extends through an end lacing eye (passage 33) on the edges of the opening (column 4, lines 25-33; Fig. 1).

Regarding claim 2, Veylupek discloses that the ends of each lace converge in grips (tabs 52 a, b) (column 6, lines 1-6; Fig. 11a).

Regarding claims 3 and 8, Veylupek discloses that the laces are led through alternating lacing eyes such that between two lacing eyes of the same edge through which a first lace extends, there is a lacing eye through which the second lace extends (Fig. 1).

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Regarding claims 4, 9, and 10, Veylupek discloses that the lacing eyes are closed (Fig. 5, 6, 9).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5-7 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Veylupek, as applied to claims 1-4 and 8-10 above, in view of Silagy (US Patent No. 6,502,329).

Veylupek discloses all elements of the claimed invention except for a means for locking the laces on the ends of each pair of laces.

Silagy teaches providing a constricting type means for locking the ends of laces together (slide 42) near the end lacing eyes (column 3, lines 14-21; Fig. 1, 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided a lace locking means or slide, as taught by Silagy, to the ends of the laces of Veylupek near the end lacing eye in order to help maintain the tension in the laces after they have been pulled tight.

Claims 1, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freed (US Patent Application No. 2003/0051374).

Freed discloses several embodiments for lacing footwear. Fig. 6A shows footwear having an opening with a first and second edge as well as a plurality of closed-eye type lacing eyes through which a lace extends. Figs. 6C-6J shows that two laces may be used to fasten the footwear instead of one. Fig. 6L shows lace ends converging and extending through a single end lacing eye in order to provide extra ankle support (paragraph 0080). Finally, Fig. 1A shows that it is conventional to have the ends of laces extend through opposite edges of the opening in footwear.

Using two laces in the embodiment of Fig. 6A instead of one would result in a lacing in which the laces would be led through alternating eyes such that between two lacing eyes of the same edge through which a first lace extends, there would be a lacing eye through which a second lace extends. It would have been obvious to one of ordinary skill in the art at the time of the invention in view of the teachings of Figs 6C-6J of Freed to have used two laces in the embodiment of Fig. 6A instead of one in order to allow for greater flexibility in tightening the laces. Further, it would have been obvious to one of ordinary skill in the art at the time of the invention to have had the laces extend

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through opposite edges of the opening and converge through a single end lacing eye in order to increase the ankle support provided by the lacing arrangement.

Claims 2 and 5-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freed, as applied to claims 1, 3, and 4 above, in view of Silagy (US Patent No. 6,502,329).

Freed discloses a grip where the laces converge, but does not disclose two separate grips or a means to lock the laces.

Silagy teaches providing a grip (clamp 74) and a means for locking the laces (slide 72) on the converging ends of a lace (column 3, lines 14-21; Fig. 1, 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided a lace locking means or slide, as taught by Silagy, to the ends of the laces of Freed near the end lacing eye in order to help maintain the tension in the laces after they have been pulled tight. Further, it would have been obvious to have provided grips on the ends of the laces on both edges, in order to facilitate gripping of the ends of the laces.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHARON M. PRANGE whose telephone number is (571)270-5280. The examiner can normally be reached on M-F 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. M. P./  
Examiner, Art Unit 3728

3/13/09

/JILA M MOHANDESI/  
Primary Examiner, Art Unit 3728